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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

JAMES BARRY WOODALL,

Defendant and Appellant.

D037820

(Super. Ct. No. SCS155350)

APPEAL from a judgment of the Superior Court of San Diego County, Jeffrey F. Fraser, Judge. Affirmed.

After the trial court granted the People's motion to exclude evidence and instructions on the defense of necessity, James Barry Woodall pleaded guilty to driving under the influence of alcohol. (Veh. Code, § 23152, subd. (a).) He admitted two prior convictions of driving under the influence of alcohol within the previous 10 years (Veh. Code, § 23550.5, subd. (a)) and a prior prison term (Pen. Code, §§ 667.5, subd. (b), 668).

The court sentenced him to three years in prison: the two-year middle term for driving under the influence of alcohol with two prior convictions of driving under the influence of alcohol within the previous 10 years, enhanced one year for the prior prison term. It denied a request for a certificate of probable cause.¹

DISCUSSION

Appointed appellate counsel has filed a brief setting forth the evidence in the superior court. Counsel presents no argument for reversal but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738 counsel refers to as possible but not arguable issues: (1) whether Woodall's guilty plea was constitutionally valid; (2) whether the sentence was in accord with the plea agreement; (3) whether Woodall was adequately advised of the consequences of his guilty plea; and (4) whether Woodall's trial counsel provided effective assistance.

We granted Woodall permission to file a brief on his own behalf. He has responded. Woodall contends that in ruling on the People's motions, the court denied him due process and a jury trial and the plea bargain included striking the prior prison term allegation. He asks us to dismiss the charges because of prosecutorial misconduct and false arrest. We requested additional briefing on whether the court erred in denying the request for instructions on a necessity defense.

¹ Because Woodall entered a guilty plea, he cannot challenge the facts underlying the conviction. (Pen. Code, § 1237.5; *People v. Martin* (1973) 9 Cal.3d 687, 693.) We need not recite the facts.

As the People correctly point out, absent a certificate of probable cause, the only issues a defendant may raise on appeal are whether the trial court erred in denying a motion to suppress evidence and post-plea rulings regarding the degree of the crime and sentencing. (*People v. Panizzon* (1996) 13 Cal.4th 68, 74.) Because the record here contains no certificate of probable cause, the trial court's rulings at the motion in limine cannot be raised on appeal. The record does not contain any support for the claims that the plea bargain included striking the prior prison term allegation or that prosecutorial misconduct or false arrest occurred. When reviewing an appeal we are limited to the record before us. (*People v. Green* (1979) 95 Cal.App.3d 991, 1001.) If Woodall wishes to raise issues based on matters beyond the record, he must do so by a petition for writ of habeas corpus filed in the trial court.

A review of the entire record pursuant to *People v. Wende, supra*, 25 Cal.3d 436, including the possible issues referred to pursuant to *Anders v. California, supra*, 386 U.S. 738, has disclosed no reasonably arguable appellate issue. Woodall has been competently represented on appeal.

DISPOSITION

The judgment is affirmed.

HUFFMAN, J.

WE CONCUR:

KREMER, P. J.

O'ROURKE, J.